

### **REMARKS**

Claims 1-6, 9, and 11-13 are currently pending, wherein claims 11 and 13 have been amended to correct typographical errors. Applicants respectfully request favorable reconsideration in view of the remarks presented herein below.

In paragraph 4 of the Office Action (“Action”), the Examiner rejects claims 11-13 under 35 U.S.C. 112, second paragraph as allegedly being indefinite. More specifically, the Examiner asserts that there is insufficient antecedent basis for the limitations “the band allocation...”, “the data transmission...”, “the detection step...”, and “the band request...” in claims 11 and 13. Applicants hereby amend claims 11 and 13 to correct the typographical errors, thereby addressing the Examiner’s concerns. Accordingly, Applicants respectfully request reconsideration and withdrawal of the rejection of claims 11-13 under 35 U.S.C. 112, second paragraph.

In paragraph 6 of the Action, the Examiner rejects claims 1-6, 9, and 11-13 under 35 U.S.C. §103(a) as allegedly being unpatentable over U.S. Patent No. 6,778,557 to Yuki et al. (“Yuki”) in view of U.S. Patent No. 6,909,719 to Petersson et al. (“Petersson”). Applicants respectfully traverse this rejection.

In order to support a rejection under 35 U.S.C. §103, the Action must establish a *prima facie* case of obviousness. To establish a *prima facie* case of obviousness three criteria must be met. First, there must be some motivation to modify/combine the cited references. Second, there must be a reasonable expectation of success. Finally, the combination must teach each and every claimed element. In the present case, claims 1-6, 9, and 11-13 are not rendered unpatentable by the combination of Yuki and Petersson for at least the reason that the combination fails to disclose each and every claimed element as discussed below.

Independent claim 1 defines an optical burst transmission/reception control system. The system includes a plurality of slave stations which commonly use a transmission band, and a host station which posts band allocation information for controlling the slave stations' use of the transmission band. The host station includes a band allocating control unit that differentiates between slave stations that can identify the type of data to be transmitted and slave stations that cannot identify the type of data to be transmitted, and posts band allocation information including identification of a slave station and the data type to be transmitted if the slave station can identify the data type. In addition, those slave stations that can identify the type of data to transmit, include a data transmission control unit that controls data transmission based on the band allocation information, including the data type, received from the master station.

In rejecting claim 1, the Examiner notes that the primary reference, i.e. Yuki, fails to disclose a band allocation unit within a host station that differentiates between slave units that can identify the data to be transmitted and slave units which cannot identify the data to be transmitted. Therefore, Yuki cannot be interpreted as disclosing posting band allocation information including the identification of a slave station and the data type to the slave station as claimed. To overcome the deficiencies of Yuki, the Examiner points to Petersson.

More specifically, the Examiner asserts that Petersson discloses "a band allocation control unit of a host station that differentiates between two classes of slave units." To support this assertion, the Examiner points to column 3, line 59 to column 4, lines 19 of Petersson. This assertion is unfounded for the following reason.

As discussed in the cited passage (i.e. column 3, line 59 to column 4, line 19) Petersson discloses a method, system, and apparatus for providing multiple quality of service classes to subscribers in a network. More specifically, the method of Petersson includes storing quality of

service information for all subscribers which have subscribed to a specific quality of service class in a database. The quality of service, according to Petersson, dictates the transmission quality that the subscriber will be granted during call setup. However, nowhere in Petersson is there any disclosure or suggestion of slave units, much less differentiating between slave units that can identify the type of data to be transmitted and slave units which cannot identify the type of the data.

Although Petersson discloses a system that determines the quality of service to be given to a subscriber during a call setup procedure which may result in subscribers receiving different transmission bandwidth, nowhere in Peterson is there any disclosure or suggestion of posting band allocation information which includes the identification of the slave station and a data type based on the quality of service. Therefore, even if *arguendo*, the subscribers of Petersson where some how equivalent to the claimed slave stations, Petersson still fails to disclose or suggest a band allocation control unit as claimed.

Since Yuki and Petersson both fail to disclose or suggest a band allocation control unit within a master station as claimed, the combination of these two references cannot possibly disclose or suggest said element. Therefore, even if one skilled in the art were motivated to combine Yuki and Petersson, which Applicants do not concede, the combination would still fail to render claim 1 unpatentable because the combination fails to disclose each and every claimed element as discussed above.

Independent claims 9 and 11 define a host station and an optical burst transmission/reception control method, respectively, that includes, *inter alia*, a band allocation control unit that controls band allocation for a slave station which does not identify a type of data to be transmitted by posting band identification information including identification of the slave

station, and controls band allocation for a slave station which identifies a type of data to be transmitted by posting band allocation information including the identification of the slave station and the data type. Accordingly, claims 9 and 11 are patentable over the combination of Yuki and Petersson because the combination fails to disclose a band allocation control unit as claimed. (See discussion above with respect to claim 1).

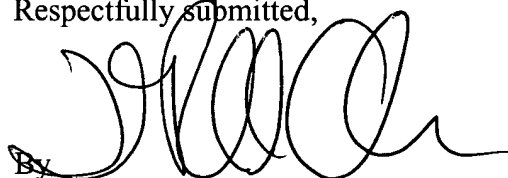
Claims 2-6, 12, and 13 variously depend from claims 1, 9, and 11. Therefore, claims 2-6, 12, and 13 are patentable over the combination of Yuki and Petersson for at least those reasons presented above with respect to claims 1, 9, and 11. Accordingly, Applicants respectfully request reconsideration and withdrawal of the rejection of claims 1-6, 9, and 11-13 under 35 U.S.C. §103(a).

The application is in condition for allowance. Notice of same is earnestly solicited. Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Penny Caudle (Reg. No. 46,607) at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Due: April 21, 2006

Respectfully submitted,

A handwritten signature in black ink, appearing to be 'D. Richard Anderson', written over a horizontal line.

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